

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

CANA FOUNDATION, a non-profit  
corporation, LAURA LEIGH, individually, and  
WILD HORSE EDUCATION, a nonprofit  
corporation,

*Plaintiffs,*

v.

UNITED STATES DEPARTMENT OF THE  
INTERIOR, BUREAU OF LAND  
MANAGEMENT, and JON RABY, Nevada  
State Director of the Bureau of Land  
Management,

*Federal Defendants.*

Case No. 2:22-cv-01200-CDS-BNW

**SUPPLEMENTAL DECLARATION  
OF GARRETT W. SWISHER**

I, Garrett Swisher, declare and state as follows:

1. The facts contained in this supplemental declaration are known personally to me as the Bureau of Land Management (BLM) Winnemucca District, Black Rock Field Office's Wild Horse and Burro Specialist.

2. The temporary holding corrals used during the August 2020 gather conducted on the Blue Wing Complex were located on privately owned property, on unfenced land that the private landowner permitted public access to.

3. The temporary holding corrals used during the August 2022 gather conducted on the Blue Wing Complex were located on private property owned by the same landowner

1 that owned the land used in 2020. However, the temporary holding corrals for the 2022 gather  
2 were located on different land. The land used for the 2022 temporary holding corrals was  
3 fenced and was closer to the well water source on the landowner's property, which was used to  
4 water the gathered animals.

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6 4. Based on my discussions with Utah BLM representatives, it is my personal  
7 understanding that Axtell Off-Range Corral (Axtell) is privately owned and has not permitted  
8 public access to the portion of its facilities holding the captured wild burros because the  
9 contract does not allow for such access. That contract language reads, "The site is not intended  
10 to be a public viewing area. Therefore, the contractor will restrict and/or prohibit access onto  
11 the site by the general public." My understanding is that the portion of the Axtell facility that  
12 houses burros is mostly pastures, so it is also not conducive to public viewing.

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14 5. During the 2022 gather on the Blue Wing Complex, the abandoned, fenced  
15 cattle pen that was located a few hundred feet from the trap site on August 1-3 and August 12,  
16 2022, was being used as a fueling location for the helicopter. Due to the need for the helicopter  
17 to refuel in this area, the area would have been unsafe for members of the public.

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19 6. Although BLM did not close any roads during the 2022 gather at the Blue Wing  
20 Complex, access was limited due to animal and helicopter proximity to those particular areas.  
21 This is done because having vehicles or people on the roads would pose a risk to safety to the  
22 personnel working on the gather and/or the public, and could affect the efficiency of the gather  
23 operations, causing undue stress on the animals being actively gathered.

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25 7. The contract for the Blue Wing Complex gather specified that "The public,  
26 media, and their video/photography/recording and telephonic equipment must be at least 500  
27 feet away from the trap during the trapping operation." However, based on my experience  
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1 with helicopter gathers, it is my practice to select public viewing locations with at least a  
2 1,000-foot minimum distance from the trap and any areas where the helicopter may be herding  
3 horses/burros or flying over to provide added safety to the gather operators, the public, and  
4 government personnel. Public observation sites are determined to ensure that the horses/burros  
5 are herded safely to the trap location while they navigate the terrain and avoid unnecessary  
6 obstructions that could impede gather efficiency or cause an unsafe situation. For example, the  
7 helicopter could experience a sudden power unit failure and need to make an emergency  
8 landing, or the rotor wash often throws materials like rocks or loose vegetation a great distance.  
9 The helicopter pilot also needs room to maneuver the aircraft and the animals around the trap  
10 site, in order for the gather to be effective. Therefore, I select public viewing locations at trap  
11 sites based on the safety of all involved, including the public, and to ensure that the gather is  
12 effective.  
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16 I declare under penalty of perjury that the foregoing is true and correct.  
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18 Executed 9<sup>th</sup> day of May 2024.  
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**GARRETT** Digitally signed by  
**SWISHER** GARRETT SWISHER  
Date: 2024.05.09  
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Garrett Swisher